

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DENNIS HILL, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

AMANDA HILL,

Respondent-Appellant,

and

JAMES HILL,

Respondent.

UNPUBLISHED

April 26, 2007

No. 274397

Kent Circuit Court

Family Division

LC No. 06-053728-NA

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DEPARTMENT OF HUMAN SERVICES,

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v

JAMES HILL,

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LC No. 06-053728-NA

Before: Cavanagh, P.J., and Jansen and Borrello, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from the order terminating their parental rights to the minor child under MCL 712A.19b(3)(g), (i), and (l).¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We find no clear error in the trial court's determination that termination was warranted in this case. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). To terminate parental rights at the initial dispositional hearing, the court must find "on the basis of clear and convincing legally admissible evidence" that petitioner proved the allegations in the petition and a statutory ground for termination in MCL 712A.19b(3). MCR 3.977(E)(3); *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993), citing *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *Trejo*, *supra* at 354; MCL 712A.19b(5).

In terminating respondents' parental rights, one of the statutory grounds relied upon by the trial court was MCL 712A.19b(3)(l), which allows for termination where a parent's rights to another child were terminated as a result of neglect proceedings. MCL 712A.19b(3)(l). Respondents argue that, without the admission in evidence of a certified copy of the prior termination order, the testimonial evidence did not clearly and convincingly establish that their parental rights to their older children were previously terminated. We disagree. The court could properly rely on the investigating caseworker's testimony that respondents informed her about their prior terminations and the circumstances surrounding them because their statements were legally admissible as party admissions. MRE 801(d)(2)(A). The court could also properly rely on respondents' direct testimony to prove that their rights to their older children were, in fact, terminated. Finally, the court could properly consider the direct testimony regarding the prior terminations elicited from the caseworker who worked with respondents during the prior proceedings as she had personal knowledge of those circumstances, which was clearly relevant to the termination decision. MRE 401; MRE 402. Despite the absence of a certified copy of the termination order, we find the testimonial evidence clearly and convincingly established that respondents' rights to their older children were previously terminated as a result of neglect proceedings, thereby warranting termination under MCL 712A.19b(3)(l).² MCR 3.977(E)(3).

¹ Respondent father's parental rights were also terminated under MCL 712A.19b(3)(m).

² We also find that the trial court did not clearly err in terminating respondents' parental rights under subsections (g) and (i), considering their history of seriously neglecting their older children, their lack of progress in services during prior proceedings involving those children, the caseworker's continued concerns regarding respondents' parenting ability and insight into the their children's medical needs, and the close proximity in time between the current and prior proceedings. *Trejo*, *supra* at 356-357. In any event, only one statutory ground needs to be proven to terminate parental rights, *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999), and the facts of this case bring it squarely within MCL 712A.19b(3)(l).

We likewise find no clear error in the trial court's determination that termination was in the child's best interests.³ *Trejo, supra* at 356-357. The child at issue was born less than one year following the termination of respondents' parental rights to their older children. Testimony revealed that during the prior proceedings respondents lacked parenting ability and insight and, most significantly, failed to make progress with services. The caseworker, who worked with respondents during those proceedings, expressed a continued concern about their parenting ability and lack of insight into the child's medical issues, did not believe that respondents could provide proper care and custody for the child, felt that he would be subjected to neglect if returned to respondents' care, and believed that termination was in his best interests. This testimony provided clear support for the trial court's decision to proceed to terminate respondents' parental rights. Although respondents argue that they should be allowed an opportunity to parent the child, the statute mandates termination once a statutory ground for termination is established, "unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *Trejo, supra* at 354; MCL 712A.19b(5). Here, the evidence failed to show that termination was clearly contrary to the child's best interests. *Trejo, supra* at 354; MCL 712A.19b(5).

Respondents finally claim that the trial court clearly erred in terminating their parental rights because petitioner failed to provide services and assistance directed at reunification with the child. We disagree. Generally, when a child is removed from a parent's custody, the agency is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan. MCL 712A.18f(1), (2) and (4). However, where petitioner, as here, requests termination in the initial petition, there is no need to develop and consider a case service plan to reunite the family because the goal is termination and the trial court could terminate parental rights at the initial dispositional hearing. MCR 3.977(E); MCL 712A.19b(4); MCL 712A.18f(3)(d). Nevertheless, we find that petitioner made reasonable efforts towards reunification by preparing a case service plan and offering respondents a multitude of services less than one year before the child's birth during the prior proceedings regarding their older children, MCL 712A.18f(1), (2) and (4), yet those efforts were unsuccessful given their lack of progress and inability to gain the necessary skills. In fact, the caseworker testified that she worked "very closely" with respondents towards reunification and provided respondents with as many services as she could during the prior proceedings. On this record, the trial court did not clearly err in finding that petitioner made reasonable efforts towards reunification. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000).

Respondent-mother also claims that the trial court erred by terminating her parental rights at the initial disposition without making a specific finding on the record that a preponderance of the evidence supported a statutory ground for jurisdiction over the child as required under MCR 3.977(E). We disagree. Under MCR 3.977(E)(2), a court may enter an order terminating parental rights at the initial disposition if, among other things, "at the trial or plea proceedings, the trier of fact finds by a preponderance of the evidence that one or more grounds for

³ The trial court went beyond the best interest inquiry under MCL 712A.19b(5). The statute does not require that the court affirmatively find that termination is in the child's best interests. *Trejo, supra* at 364 n 19.

assumption of jurisdiction over the child under MCL 712A.2(b) have been established.” Following the combined adjudicatory/termination trial, the court entered a dispositional order, wherein it specifically found that statutory grounds existed to exercise jurisdiction over the child under MCL 712A.2(b) by a preponderance of the evidence. It is well settled that the court speaks through its written orders. *In re Gazella*, 264 Mich App 668, 677, 692 NW2d 708 (2005). We find, therefore, that the court, through its written order, substantially complied with the requirement of MCR 3.977(E). Regardless, any error was harmless considering that the evidence was more than sufficient to support both jurisdiction and termination where respondents’ parental rights to four other children were recently terminated and prior rehabilitative efforts were unsuccessful. MCR 2.613(A); MCR 3.901(B)(1); MCR 3.902(A).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Stephen L. Borrello